

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19050 OF 2004

DATED: 12.10.2006

Between:

Singampalli Krishna

... Petitioner

and

The Commissioner of Endowments and others

... Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.19050 OF 2004

ORAL ORDER:

Pursuant to the orders of this court dated 26.9.2006, respondents 2 to 4 are present. Counter affidavits have been filed by the respondents 2 to 4.

The petitioner asserts to be in possession and enjoyment of 60 sq.yards of land in Sy.No.275, Ganeshnagar, Saligrampuram, Visakhapatnam; to have raised a thatched shed and to be residing therein since the last 18 years. He claims entitlement to regularization of property in his favour under orders of the Government in G.O.Ms.No.578 dated 19.8.2000. It is also asserted that about Ac.20.00 of land of the Simhachalam Devasthanam in Sy.No.275 was occupied by encroachers, who later formed an association known as S.V.N.V.R. Gajapathi Nagar Society (for short 'the Society'). The petitioner also asserts to have submitted an application to the 4th respondent-Executive Officer for regularization of his unauthorized occupation of the Devasthanam lands. He also alleges that the Society had allotted him some land out of the Devasthanam land encroached by the Society and that in transgression of the procedure and substance of law ordained by Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), the 4th respondent and his staff are interfering with the petitioner's peaceful and lawful possession of the encroached property of the Devasthanam and are out to demolish the structures erected by the petitioner on the property, in what is claimed to be land situated besides plot no.223, Ganeshnagar, Saligrampuram, Visakhapatnam.

The counter affidavit of the 4th respondent-the Executive Officer of the Devasthanam is relevant and material to the petitioner's claim in the writ petition. The 4th respondent asserts that the petitioner is a recidivist and habitual encroacher of the endowment properties, in particular of Simhachalam Devasthanam properties; that no land was ever allotted to the petitioner by any Society to the knowledge of the answering respondent; that any transaction between the encroacher-Society and the writ petitioner are outside the knowledge of the answering respondent and in any event does not bind the Devasthanam or the Endowments Department and that the petitioner has no manner of right, title, interest or legitimate expectation to occupy or continue in the occupation of the Devasthanam lands.

The 4th respondent also categorically and unequivocally denies the claim of the petitioner to being a long duration encroacher of the Devasthanam lands. He also

asserts that earlier in W.P.No.19964 of 2003, the petitioner claimed to be in possession of 30 sq.yards of land in Sy.No.275 of Ganesh Nagar and to have raised a thatched shed and residing therein for the last 18 years and claimed that he was entitled to the benefits under G.O.Ms.No.578 dated 19.8.2000 and that despite a current and operational injunction order issued by the learned Junior Civil Judge, Bheemunipatnam in O.S.No.90 of 2003, his thatched shed was demolished at the instance of the Devasthanam by the MRO, Visakhapatnam. By the order dated 17.11.2003 in W.P.No.19964 of 2003, the 4th respondent asserts, this court had observed that the petitioner failed to establish his possession and enjoyment of the property and that the MRO was within his jurisdiction in issuing a notice under the Land Encroachment Act, for removal of the unauthorized encroachment. The 4th respondent further states that thereafter the writ petitioner was evicted from the land under his occupation and he encroached on another site in Plot No.223 in Sy.No.275 of Adavivaram village. He was dispossessed from the said site also, by the Devasthanam Land Protection Officials on several occasions and when he attempted to encroach on the land of the Devasthanam again, a complaint was lodged on 15.1.2004 before the 4th Town Police Station, Visakhapatnam. The writ petitioner is again said to have unauthorisedly and illegally encroached on Plot No.223 in Sy.No.275 of Adavivaram village and thereafter filed the present writ petition and obtained an order of status-quo on 14.10.2004 and is illegally squatting on the land of the Devasthanam, without right, title, or equity. The 4th respondent also makes a mention in his counter affidavit that the Ganesh Seva Sangam had itself encroached on a large extent of land belonging to the Devasthanam in Sy.No.275 of Adavivaram village and had filed W.P.No.2810 of 2001 and its members filed W.P.No.2811 of 2001 questioning the validity of G.O.Ms.No.578 dated 19.8.2000 and that this court has granted status-quo on 20.2.2001. The purport of the status-quo order or whether an order of status-quo in the context of W.P.Nos.2810 and 2811 of 2001 enable continued squatting of encroachers on Devasthanam lands, is not clarified in the 4th respondent's counter.

Be that as it may.

The categorical and clear assertion on behalf of the Devasthanam by the 4th respondent-its Executive Officer is that the petitioner is a perpetual encroacher and

has squatted on a Plot No.223 in Sy.No.275 of Adavivaram village recently, is not rebutted.

In the circumstances, the petitioner is not entitled to any relief in this writ petition. The writ petition is therefore dismissed. The interim order of this court dated 14.10.2004 stands dissolved forthwith. No costs.

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GODA RAGHURAM, J

Date: 12.10.2006
CVM